

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK
BUFFALO DIVISION**

D'YOUVILLE COLLEGE A/K/A
D'YOUVILLE UNIVERSITY

Plaintiff,

v.

HARTFORD FIRE INSURANCE
COMPANY,

Defendant.

Civil Action No. 1:25-cv-179

**DEFENDANT HARTFORD FIRE
INSURANCE COMPANY'S
NOTICE OF REMOVAL**

**TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK:**

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Hartford Fire Insurance Company ("Hartford") files this Notice of Removal of the above-captioned action from the Supreme Court of New York, County of Erie, Index No. 801035/2025 (the "State Court Action"), to the United States District Court for the Western District of New York. In support of this Notice, Defendant states as follows:

1. On February 25, 2025, upon request of Plaintiff, D'Youville College a/k/a D'Youville University, counsel for Hartford agreed to accept service of the Summons and Complaint effective February 25, 2025. Attached hereto as **Exhibit A** is a State Court Index of Pleadings. Attached hereto as **Exhibit B** is a copy of the Summons and Complaint. Attached as **Exhibit C** are copies of all process, pleadings, and orders filed in the State Court Action.

2. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b) and Rule 6 of the Federal Rules of Civil Procedure because it is filed within thirty (30) days of Defendant's

initial receipt of the Complaint, which constitutes the “pleading . . . from which it may first be ascertained that the case is one which is . . . removable.” 28 U.S.C. § 1446(b).

3. The ground for removal is diversity of citizenship under 28 U.S.C. § 1332, insofar as Plaintiff and Defendant currently are, and at all relevant times were, citizens of different states. Specifically:

- a. Defendant Hartford Fire Insurance Company is, and at all material times was, a corporation organized and incorporated under the laws of Connecticut, with its principal place of business in Hartford, Connecticut. (See Compl. ¶ 3, “Upon information and belief, Hartford was and is an insurance company organized and duly authorized to transact insurance business in the State of New York.”).
- b. Plaintiff D’Youville College a/k/a D’Youville University is, and at all relevant times was, a not-for-profit corporation organized under the laws of New York, with its principal place of business in Erie County, New York. (See Compl. ¶ 1).

4. In addition, as required by 28 U.S.C. § 1332(a), the amount in controversy is in excess of \$75,000.00. Plaintiff’s damages “resulting from the Loss total more than \$5,000,000.00.” (Compl. ¶ 11). Plaintiff is seeking payment from Hartford for the alleged loss to its property pursuant to the commercial insurance policy issued by Hartford to Plaintiff for the property. By pleading that its losses “total more than \$5,000,000.00,” Plaintiff has admitted that the amount of controversy is in excess of \$75,000.00.

5. A notice of removal “need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold,” *Dart Cherokee Basin Operating Co. v. Owens*,

574 U.S. 81, 89 (2014), and if contested, a court will determine whether the threshold is met by a preponderance of the evidence, *id.* at 88.

6. Because there is complete diversity of citizenship and because it is reasonably probable that the amount in controversy exceeds \$75,000.00, this Court has jurisdiction under the provisions of 28 U.S.C. § 1441(b).

7. Pursuant to 28 U.S.C. § 1441 and 1446, removal of the State Court Action to this Court is appropriate.

8. Defendant reserves the right to supplement this Notice of Removal.

9. By filing this Notice of Removal, Defendant does not waive its right to object to service, service of process, the sufficiency of process, venue or jurisdiction, and reserves the right to assert any claims, defenses and/or objections to which it may be entitled.

10. Defendant shall file a copy of this Notice of Removal with the Supreme Court of the State of New York, County of Erie pursuant to 28 U.S.C. § 1446(d).

WHEREFORE, notice is hereby given that this action is removed from the Supreme Court of the State of New York, County of Erie to the United States District Court for the Western District of New York.

Dated: February 26, 2025

DEFENDANT
**HARTFORD FIRE INSURANCE
COMPANY**

By: /s/ Gerald P. Dwyer, Jr.
Gerald P. Dwyer, Jr. (GD0329)
Robinson & Cole LLP
One State Street
Hartford, CT 06103
Phone: 860-275-8200
Fax: 860-275-8299
gdwyer@rc.com